

National Aeronautics and Space Administration  
John F. Kennedy Space Center Procurement Office

Disposition of DRAFT RFP Comments  
For DRAFT RFP NNN09290805R, NASA Acquisition of Helium

Reference: 1.5. Period of Performance

Question: Would NASA consider mutual consent for the two option year periods?

Response: No, as provided in FAR 52.217-9 Option to Extend the Term of the Contract, exercise of option periods are at the sole determination of the Government.

Reference: 1.6.1. Bulk and Helium Dear Requirements, CLIN 032

Question: Would NASA consider splitting this requirement?

Response: This requirement has historically been provided by a single supplier. Additionally, CLIN 032 quantities are forecasted to be less for this acquisition than prior acquisitions; therefore, this requirement will not be split.

Reference: 1.9. Delivery Order Procedures, Paragraph (c)

Question: Lead time for orders need to be made during standard work days (not on weekends) and preferably before noon.

Response: Ordering is normally made during standard business hours. However, operational requirements may require an order to be placed during non business hours as provided in Section 1.9. and Attachment 03.

Reference: 1.9. Delivery Order Procedures, Paragraph (c)

Question: Is there an expedite fee for orders less than 48 hours out?

Response: No, there is not an expedite fee for orders with less than a 48-hour notice. Note: The contractor is not required to support a requirement with a lead time of less than 48 hours, unless otherwise specified in Attachment 03 or the delivery order.

Reference: 1.10. Funding and Payment, Paragraph (b)

Question: We would request to remove the requirement to have the CLIN and Contract number on the invoice. This information is already on the DD 250. Also, rather than waiting to bill on a monthly basis, we would like to bill after each delivery that is made.

Response: In accordance with paragraph (g)(iii) of FAR 52.212-4 Contract Terms and Conditions – Commercial Items (incorporated by reference), an invoice must include the “Contract number, contract line item number [CLIN] and, if applicable, the order number.”  
Note: Section 1.10. Funding and Payment, provides instructions for displaying delivery charges on the invoice, and additional documentation to be submitted with the invoice. It is not intended as an exception to the invoice requirements provided in FAR 52.212-4(g). Additionally, Section 1.10.(b) provides for payment for deliveries other than on a monthly basis.

Reference: 2.4. FAR 52.208-8 Required Sources for Helium and Helium Usage Data (Apr 2002), Paragraph (b)(2)

Question: This information is captured on BLM records; why would the supplier have to provide?

Response: FAR 52.208-8 is for award to contractors, where in the performance of the contract, the contractor may use a major helium requirement. Note: As provided in the clause, "contractor" (i.e., a helium user) is not synonymous with "federal helium supplier." Awards resulting from this RFP are for only the supply of helium from federal helium suppliers; therefore, this clause will be removed from the RFP. Note: Section 2.4. will remain in the RFP as a placeholder.

Reference: 2.6. FAR 52.212-4 Contract Terms and Conditions – Commercial Items (Mar 2009), Paragraph (h)

Question: [Offeror] requests that NASA exclude the reference to FAR 52.212-4(h) from the contract, or insert wording [offeror proposed wording withheld] that limits Contractor's obligations to only apply with respect to liability arising out of Contractor's performance of the contract.

Response: Offeror's request to modify FAR 52.212-4(h) will not be accepted.

Reference: 2.10. FAR 52.217-9 Option to Extend the Term of the Contract (Mar 2000)

Question: Can the extension be subject to mutual agreement? Also, if the extension puts the supplier in a hardship situation, can the supplier be provided with financial relief or release from the contract?

Response: No, the option to extend the term of the contract clause in accordance with FAR 52.217-9 is at the sole determination of the Government. Additionally, a contractor will not be provided with financial relief or release from the resultant contract unless an exception applies under FAR 50.103-3(b).

Reference: 2.22. NFS 1852.245-76 List of Government-Furnished Property (Oct 1988)

Question: Is the contractor responsible for routine maintenance on the Government-owned trailers? Additionally, is the contractor responsible for retesting of Government-owned equipment?

Response: The contractor is not responsible for retesting or maintenance of Government-furnished equipment unless specified by the contractor in Attachment 01 or as specified by the Government under Attachment 03, Statement of Work: Kennedy Space Center.

Reference: 3.1. Delivery Requirements, paragraph (c)

Question: We assume that this is for dewar and ISO Containers; is this correct?

Response: Liquid helium containers (i.e., dewars and tankers) are subject to purge and cool-down services. Tube trailers are subject to only purge services.

Reference: 3.8. Government's Inability to Accept Delivery

Question: Shouldn't NASA pay for [helium] lost as a result of an aborted delivery attempt [for reasons attributed to NASA and not the contractor]?

Response: Helium lost during the course of delivery, regardless of whether or not the Government is able to accept delivery, is not subject to additional cost. Please refer to RFP Section 3.3 Method of Measurement for Billing, for additional information.

Reference: 3.9. Failure to Deliver

Question: Before NASA would acquire product from another source, [offeror] would request that it acknowledge receipt of NASA's notification in writing and have the opportunity to acquire the product.

Response: In the performance of a resultant contract, the contractor should abide by the contract's terms and conditions, and if necessary, acquire product from alternate sources, if the contractor is unable to perform. Additionally, FAR 52.212-4(h) requires contractors to notify the contracting officer as soon as possible after commencement of any excusable delay. Therefore, in most situations, this requirement eliminates the need for a show cause notice, cure notice, or any other delinquency notice prior to terminating a contract (see FAR 12.403(c)(1)).

Reference: 8.1. Proposal Evaluation, Note: "Alternate pricing proposals will not be accepted. In addition, CLIN pricing contingent on award of multiple CLINs will not be accepted."

Question: Certain NASA facilities are challenging to supply and offer very little financial benefit to bid. By removing any ability to negotiate alternative or creative offers this will only encourage [offeror] to not bid those locations. If an alternate offer would financially benefit NASA and encourage a supplier to participate, what harm or legal implication would arise by leaving the option open to negotiate?

Response: Based on the magnitude of this acquisition (41 CLINs) and evaluation criteria which provides for award of individual CLINs and grouped CLINs, alternate pricing proposals will not be accepted. In addition, CLIN pricing contingent on award of multiple CLINs will not be accepted." The supplier should notify the contracting officer of any onerous and/or inefficient requirements.

Reference: 8.1. Proposal Evaluation, Paragraph (b)(2), Step 2: Delivery Fee Evaluation

Question: What is the evaluation point according to page 11, specifically FEE $\alpha$ ?

Response: FEE $\alpha$  refers to the delivery fee for a location when the price of diesel fuel is within a particular threshold. For example, FEE $\alpha$  is for a delivery fee of \$2.00 per delivery to ARC, Moffett Field CA, when the price of diesel is falls within a \$4.76-\$5.25 threshold. Note: The delivery fee could vary based on the price of fuel, which is why various thresholds have been used in the table at Section 1.7.2. As provided in Step 2: Delivery Fee Evaluation, the " $\alpha$ 1,  $\alpha$ 2..." refers to different diesel fuel thresholds (i.e., \$0.00-\$2.25; \$4.76-\$5.25...) that will be used for each contract year for evaluation purposes. Therefore, each contract year will use a different delivery fee for evaluating purposes, assuming the delivery fee submitted for each diesel fuel threshold is different.

Reference: 8.1. Proposal Evaluation

Question: If [offeror] were to provide an offer within the guidelines of the solicitation; can it not provide a supplemental offer to introduce a potential cost saving idea or proposal (i.e., not grouping sites) outside the recommended guidelines?

Response: Based on the magnitude of this acquisition (41 CLINs) and evaluation criteria which provides for award of individual CLINs and grouped CLINs, alternate pricing proposals will not be accepted. In addition, CLIN pricing contingent on award of multiple CLINs will not be accepted."

Reference: Attachment 02: Capability Form

Question: There is no question regarding if either primary or secondary production facility is company-owned and operated or a third party production facility. To expand, if a potential supplier chooses to reference a third party facility, what portion of that production is available for NASA requirements?

Response: The capability forms are not meant to reflect unused production facility capacity. The use of the forms, among other reasons (i.e., quality assurance purposes) is for the supplier to demonstrate that it has access to the necessary assets to meet requirements.

Reference: Attachment 03: Statement of Work, Ames Research Center

Question: Per a conversation with NASA personnel – we understand that the Ames Research Center's tube trailer requirement [CLIN 001] needs to be at 3000 psig and have a flow rate of 7 lb/sec. This probably needs to be identified in the solicitation as it is an unusual specification requiring special alteration to six or more trailers, based upon the projected usage. Would NASA be willing to offset the cost of this equipment change?

Response: The Ames Research Center requirement previously provided under CLIN 001 has been removed from this RFP. CLIN 001 will remain in the RFP as a placeholder (i.e., "Reserved").

Reference: Attachment 04: Performance Specification, Neon and Hydrogen Testing

Question: [Offeror] requests that the documentation from the helium liquefaction source showing that the neon and hydrogen levels are within spec be suitable as results for gaseous and dewar specification requirements. Offeror indicates that through the fill process at its trans-fill, there is no source for these items to be introduced into the product that is delivered. [Offeror] indicates that it would provide semiannual testing as confirmation.

Response: Use of liquid helium tanker analysis for liquid helium dewars is allowed in accordance with MIL-PRF-27407 (Revision C), and is already provided in the RFP (pg 28 par 3.2(b)). However, use of liquid helium tanker analysis for gaseous helium trailer deliveries is acceptable for this acquisition.

Reference: 43 CFR Part 3195

Question: What if the [Bureau of Land Management] has a short fall in helium? Is the supplier expected to make up shortfall from commercial sources? If so, would NASA provide financial relief for going outside the [Bureau of Land Management] product supply?

Response: Yes, in accordance with 43 CFR Part 3195.36, "If there is a shortage of helium (either company specific or industry wide) which would cause you to defer helium shipments to a buyer, you must, in accordance with your In-Kind Crude Helium Sales Contract, give the United States priority over non-government requirements." Please refer to 43 CFR Part 3195 for additional information. Additionally, NASA will not provide financial relief for going outside the Bureau of Land Management product supply.

#### SIGNIFICANT RFP CHANGES

1. CLIN 001 requirements removed.
2. Clause at Section 2.4. [ FAR 52.208-8 Required Sources for Helium and Helium Usage Data (Apr 2002)] removed.
3. Statement of Work, Special Delivery Requirements for the Columbia Scientific Balloon Facility (Palestine, TX and Fort Sumner NM) revised.